IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 144 of 1998
With
CRIMINAL REVISION APPLICATION No. 147 of 1998
To
CRIMINAL REVISION APPLICATION No. 150 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ? **1 to 5 NO**

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SHANTILAL CHATRABHUJ SHAH & 2 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR IM MUNSHI for Applicant(s) : 1 - 3.
MR SS PATEL ADDL PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 01/12/2006

ORAL JUDGMENT

1. The petitioners have sought to challenge, by way of present revision petitions, the common judgment and order dated 6.1.1998 of the learned

Additional Sessions Judge, Surendranagar whereby the appeals of the petitioners were dismissed resulting into confirmation of the order of fine imposed by the trial court for the offences under various rules of the Minimum Wages Act, 1948 (for short "the Act").

2. The impugned oder of the learned Additional Sessions Judge was sought to be challenged mainly on the grounds that all the petitioners were not proved to be partners or persons in charge of the firm and that the evidence led before the court was insufficient to convict the petitioners.

3. It was seen from the impugned judgment that the Inspector under the Act had visited the premises of the firm of the petitioners and, upon finding non-compliance of various provisions of the Act and the rules made thereunder, complaints were filed in the criminal court. The inspector had issued notices to the firm and the partners before joined them as accused. The complainant had entered the box and he was cross-examined by the learned advocate of the petitioners. All the statements regarding involvement of the partners and their status as partners remained unchallenged and, therefore, the contentions of the petitioners in that regard were not accepted.

4. Learned advocate Mr.Munshi could not point out from the record and proceedings, which were called, how the evidence was insufficient for proving the violation of the rules as alleged in the complaint. In any case, there was no reason to re-appreciate the evidence to reach a conclusion different from the one reached by the trial court by proper appreciation of the evidence.

5. The learned counsel sought to rely upon several judgments related to the provisions of sections 138 and 141 of the Negotiable Instruments Act, 1881 and urged the court to adopt the analogy in view of similarity of the language employed in section 22 of the Act. However, there are additional provisions and safeguards provided in section 23 of the Act which are not to be found in the Negotiable Instruments Act. Admittedly, the petitioners have not resorted to the provisions of section 23 of the Act. And, as recorded by the learned Additional Sessions Judge, imposition of fine of a paltry sum did not require any interference.

6. In the above facts and circumstances, no case having been made out for exercising the revisional jurisdiction of this court, the

petitions are dismissed and Rule in each petition is discharged with no order as to costs.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)